

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

BOLLING SMITH II,

Defendant.

RELEASE ORDER

Case No. 10-CR-180-BBC

For reasons stated on the record in this case, it is ORDERED that the above-named defendant shall be released during the pendency of this case upon defendant's promise to obey the following conditions of release:

**Standard Conditions for All Released Defendants**

1. Defendant shall not commit any offense in violation of federal, state or local law while on release.
2. Defendant shall appear at all proceedings as required and shall surrender at the time and place directed by further court order for service of any sentence subsequently imposed in this case.
3. Defendant shall report immediately to the U.S. Marshal's Office for processing and then to the Pretrial Services Office for a post-hearing interview.
4. Defendant shall cooperate in the collection of a DNA sample as required by 18 U.S.C. § 3142(b).
5. Defendant shall hereafter meet with defendant's Pretrial Service Officer at the times and places directed and obey all directions and instructions of the pretrial services office.
6. Defendant shall next appear at this location: COURTROOM 460  
at this date and time: APRIL 7, 2011 AT 10:30
7. Defendant shall not engage in any undercover or informant activity on behalf of any government agency, except for a debriefing, without prior written approval of a district judge of this court.
8. If defendant is charged with a felony, then defendant shall not ship, transport or receive any firearm or ammunition. See 18 U.S.C. § 922(n). Note that this is not a prohibition against the continued possession of firearms, which is addressed in condition number 15, below.

9. This court has a zero-tolerance policy for drug use by criminal defendants released on conditions. Violation of any condition of release or of any other direction or instruction given by the Pretrial Service Office relating to drugs or drug use shall result in return to court for a hearing on the modification or revocation of conditions of release. To ensure the fair enforcement of this policy, every criminal defendant released on conditions shall be subjected to at least one random test for drug use.

**Note Well:** If defendant has a drug or alcohol use problem, it is defendant's obligation to advise Pretrial Services *now* so that appropriate conditions can be considered and fashioned to address the problem.

10. Defendant shall surrender defendant's passport to the clerk of this court. If the defendant is acquitted or the charges are dismissed, then the clerk shall return the passport to the defendant. If the defendant is convicted, then the clerk shall send the passport and a copy of the judgment and conviction order to the U.S. State Department. Defendant shall not apply for a replacement passport while on pretrial release or while serving any sentence if convicted.
11. Defendant shall report in advance to the Pretrial Services Office all changes in employment, residence, and telephone.
12. If defendant has any contact with any representative of any law enforcement agency regarding any criminal or traffic matter, then defendant shall report this contact to the Pretrial Services Office within 24 hours of the contact.

#### **Additional Conditions**

- \_\_\_\_ 13. Defendant shall register with local law enforcement agencies as directed by the Pretrial Services Office.
- \_\_\_\_ 14. Defendant shall seek and maintain employment in a manner approved by the Pretrial Services Office.
- \_\_\_\_ 15. Defendant shall not use or possess firearms, destructive devices, or other dangerous weapons.
- \_\_\_\_ 16. Defendant shall /abstain from any / refrain from excessive / use of alcohol.
- \_\_\_\_ 17. Defendant shall not associate in any manner with persons who use or possess drugs, or previously were known to use or possess drugs, and defendant shall avoid places where drugs are or were known to have been used, possessed or dispensed.

- \_\_\_\_ 18. Defendant shall not use, possess, buy or sell any illicit or narcotic drugs or any other controlled substance defined in 21 U.S.C. §802, unless prescribed by a licensed medical practitioner with the knowledge of the Pretrial Services Office. Defendant shall not use methadone or obtain a prescription for methadone.
- \_\_\_\_ 19. Defendant shall submit to urinalysis or other testing as directed by the pretrial services office to detect drug or alcohol usage.
- \_\_\_\_ 20. Defendant shall undergo an Alcohol and Other Drug Assessment at the direction of the Pretrial Services Office and comply with any instructions or directions given by the Pretrial Services Office as a result of the assessment.
- \_\_\_\_ 21. Defendant shall not associate with, speak to, telephone, text, e-mail or have any contact of any sort with these people:

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If codefendants are listed above, this prohibition does not apply to association that occurs in the presence of the attorneys for all defendants during bona fide legal defense meetings.

- \_\_\_\_ 22. Defendant shall not travel outside the following geographic area except when traveling directly to this court or to the office of defendant's attorney for matters relating directly to this case, or when prior permission has been obtained from the Pretrial Services Office:

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- \_\_\_\_ 23. Defendant shall observe the following curfew:

Remain at this residence: \_\_\_\_\_

During these times: \_\_\_\_\_

Exceptions from this curfew must be approved in advance by the Pretrial Services Office.

- \_\_\_\_ 24. Defendant shall submit to electronic and GPS monitoring as directed by the Pretrial Services Office. Defendant shall / not / pay the cost of monitoring.

- \_\_\_\_ 25. Defendant shall be placed in the third-party custody of these people:
- \_\_\_\_\_

**Custodian's Promise to the Court**

Each undersigned third-party custodian has read these conditions of release, understands what these conditions require the defendant to do and not to do, and promises the court that the custodian will:

- (1) Supervise the defendant to ensure that the defendant complies with these conditions of release;
- (2) Use every effort to ensure that the defendant appears as required at court proceedings in this case; and
- (3) Immediately notify the pretrial services office, the court, and if needed, local law enforcement authorities if defendant violates any release condition or if defendant appears to be planning to flee or actually flees.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

- \_\_\_\_ 26. Defendant shall participate in mental health assessment/treatment/counseling as approved and directed by the Pretrial Services Office. Defendant shall follow all treatment directives and take any medication prescribed by defendant's treatment provider, as approved by the Pretrial Services Office. Defendant shall waive any patient-provider privilege as to this process so that the Pretrial Services Office may oversee it properly. Defendant is responsible for obtaining funding for any required treatment, counseling or medications, with assistance from the Pretrial Services Office.

- \_\_\_\_ 27. Defendant shall notify third parties, including his employer, his client and the financial institutions with which he conducts business, of the pending federal charges and shall permit pretrial services to make notifications and to confirm compliance with this condition.

\_\_\_\_ 28. \_\_\_\_\_

\_\_\_\_ 29. \_\_\_\_\_



### Notice of Penalties and Sanctions

The defendant's violation of any of the conditions of release imposed in this order may result in the immediate issuance of a warrant for the defendant's arrest, the revocation of release, and an order of detention. It could also result in a separate prosecution for contempt under 18 U.S.C. § 401, which is punishable by a term of imprisonment and a fine. *See* 18 U.S.C. § 3148.

If the defendant commits a crime while released pursuant to this order and is later convicted of that new crime, then the defendant can also be prosecuted in federal court for having committed a crime while released, which is a violation of 18 U.S.C. § 3147. If the new offense is a felony, the defendant would face up to ten years in prison. If the new offense is a misdemeanor, the defendant would face up to one year in prison. Any sentence imposed for such a violation would be consecutive to any other sentence imposed upon the defendant.

It is a crime for the defendant knowingly to fail to appear as required by these conditions of release, or to fail to appear for the service of sentence pursuant to a court order. If the defendant was released in connection with a charge of, or while awaiting sentence, surrender for the service of a sentence, or appeal or certiorari after conviction for:

1. An offense punishable by death, life imprisonment, or imprisonment for a term of fifteen years or more, the defendant shall be fined not more than \$250,000 or imprisoned for not more than ten years or both;
2. An offense punishable by imprisonment for a term of five years or more, but less than fifteen years, the defendant shall be fined not more than \$250,000 or imprisoned for not more than five years, or both;
3. Any other felony, the defendant shall be fined not more than \$250,000 or imprisoned not more than two years, or both;
4. A misdemeanor, the defendant shall be fined not more than \$100,000 or imprisoned not more than one year, or both.

A term of imprisonment imposed for failure to appear or surrender shall be consecutive to a sentence of imprisonment for any other offense. *See* 18 U.S.C. § 3146.

It is a federal crime to intimidate, to influence, or to injure jurors or officers of the court or to attempt to do so. *See* 18 U.S.C. § 1503.

It is a federal crime to obstruct criminal investigations by bribery, or by disclosing the existence or content of subpoenas to financial institutions or the insurance industry. *See* 18 U.S.C. § 1510.

It is a federal crime to intimidate, to harass, to influence, or to injure witnesses, potential witnesses, victims or informants, or to threaten or attempt to do so. *See* 18 U.S.C. § 1512.

It is a federal crime to retaliate against a witness, victim or informant, or to threaten or attempt to do so. *See* 18 U.S.C. § 1513.

### Acknowledgment and Promise of the Defendant

I acknowledge that I am the defendant in this case.

I am aware of and I understand all of the conditions of release that have been imposed upon me.

I promise to obey all conditions of release, to appear as directed, and to surrender for service of any sentence imposed.

I am aware of and I understand the prohibitions and penalties set forth above in the Notice of Penalties and Sanctions section of this release order.

Bolly B. Smith  
Signature of Defendant

1-07-2011  
Date

### Directions to the United States Marshal

It is ORDERED that the Marshal shall:

- X Release the defendant after processing, in the ordinary course of the marshal's business.
- \_\_\_\_\_ Detain the defendant in custody until notified by a judicial officer, the Clerk of Court, or the Pretrial Service Office that the defendant has complied with all conditions of release set in this order and therefore may be released on these conditions.

BY THE COURT:

Stephen L. Crocker  
STEPHEN L. CROCKER  
Magistrate Judge

1-7-11  
Date